IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Appeal From Order No.l38 of 2006
with
Civil Appln No.l80 of 2006

Anand Babu Moolya and ors ...appellants
vs
Now Std Engineering Co Ltd and ors.. respondents

Mr Sundar G Mendon for appellants
Ms Bharti Singh for respondent no.l

CORAM; A.M.KHANWILKAR J.

DATED 24.2.2006

P.C.

l. Heard the learned counsel for the parties. Two grievances were made before this court on behalf of the appellant. First grievance is that the respondent no.l has persuaded the trial court to pass relief as has been granted in the impugned order on the basis of the communication sent by the corporation addressed to Sanjay Mishra Architect to the respondent no.l on ll.7.2002. It is the case of the appellant that permission which was granted in favour of the respondent no.l has expired sometime back and further is in respect of some other plot. It is not necessary for me to enter in to this controversy for the nature of the assurance given on behalf of the respondent no.l before the

trial court and which has been reiterated before this court. This is so because the appellants have not challenged the permission granted in favour of the respondent no.l so far nor have resorted to substantive suit praying that respondent no.l are not entitled to develop the plot on which suit structure belonging to the appellants are standing.

2. Second grievance made before this court on behalf of the appellants is that the assurance given before the trial court on behalf of the respondent no.l makes no reference to the fact that the present access available to the appellants for the purpose of egress and ingress to the structure occupied by them will not be affected in any manner. In so far as this grievance is concerned, the learned counsel for the respondent no.l appearing before this court on instructions states that although respondent no.l intends to carry on development activities on the plot in question, that will be done in such manner that the right available to the appellants in respect of the structure occupied by them for ingress and egress will not be affected in any manner.The learned counsel for the respondent no.l also assured that any development activity to be undertaken by the respondent no.l will be strictly in accordance with

the permission which has already been granted by the corporation and to be granted hereinafter from time to time. The learned counsel for the respondent no.l also states that the respondent no.l has already moved the corporation for revalidation of the sanctioned plan which has already expired. The respondent no l assures before this Court that no activity will be carried on on the said plot till such permission is accorded by the corporation.

3. Viewed in this perspective there is no reason to interfere with the impugned order, subject to clarification made herein before with reference to the specific grievance made on behalf of the appellants before this court and on accepting the assurance given on behalf of the respondent no.l through counsel in court as referred to above. Appeal as well as the Civil Application are dismissed in the above terms.